

August 12, 2021

By ECF

The Honorable J. LaShann DeArcy Hall  
United States District Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: United States v. Stanislaw Pszeniczny, 18-CR-433 (LDH),  
Request to Reconsider Defendant's Motion to Dismiss in Light  
of *Niz-Chavez v. Garland*, 141 S.Ct. 1474 (2021)

Dear Honorable J. LaShann DeArcy Hall:

The following exhibits are filed in conjunction with entry 60 "MOTION for Reconsideration *Letter Brief* by Stanislaw Pszeniczny. (Cohen, David) (Entered: 08/05/2021)."

Sincerely,

/s/ David J. Cohen, Esq.  
David J. Cohen, Esq.  
Attorney for the Defendant  
Cohen Forman Barone, LLP  
950 Third Avenue, 11<sup>th</sup> Floor  
New York, NY 10022

# EXHIBIT A

U.S. Department of Justice  
Immigration and Naturalization Service

**Notice to Appear****In removal proceedings under section 240 of the Immigration and Nationality Act**File No: A45 031 495

In the Matter of:

Respondent: Stanislaw PSZENICZNY currently residing at:  
56 57 59th Street, Maspeth, New York 11378 (718) 894-5051  
(Number, street, city, state and ZIP code) (Area code and phone number)

- ☐ 1. You are an arriving alien.  
☐ 2. You are an alien present in the United States who has not been admitted or paroled.  
☒ 3. You have been admitted to the United States, but are deportable for the reasons stated below.

The Service alleges that you:

- SEE ATTACHED ALLEGATIONS -

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act (Act), as amended, in that, at any time after admission, you have been convicted of an aggravated felony as defined in Section 101(a)(43) of the Act.

Section 237(a)(1)(E)(i) of the Immigration and Nationality Act (Act), as amended, in that prior to the date of your entry, at the time of entry, or within five years of the date of your entry, you knowingly encouraged, induced, assisted, abetted, or aided any other alien to enter or to try to enter the United States in violation of law.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8 CFR 208.30(f)(2) ☐ 8 CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at: \_\_\_\_\_

on TO BE SET at TO BE SET to show why you should not be removed from the United States based on the  
(Date) (Time)  
charge(s) set forth above.

\_\_\_\_\_  
Officer in Charge  
of Issuing Officer)

Date: 06/24/97

Albany, New York  
(City and State)

**See reverse for important information**

**SP 000172**  
Form I-862 (Rev. 4-1-97)

## Notice to Respondent

**Warning:** Any statement you make may be used against you in removal proceedings.

**Alien Registration:** This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

**Representation:** If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 3.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this Notice.

**Conduct of the hearing:** At the time of your hearing, you should bring with you any affidavits or other documents which you desire to have considered in connection with your case. If any document is in a foreign language, you must bring the original and a certified English translation of the document. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or deportable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge.

You will be advised by the immigration judge before whom you appear, of any relief from removal for which you may appear eligible including the privilege of departing voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

**Failure to appear:** You are required to provide the INS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the INS.

### Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to have a 10-day period prior to appearing before an immigration judge.

Before:

\_\_\_\_\_  
(Signature of Respondent)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature and Title of INS Officer)

### Certificate of Service

This Notice to Appear was served on the respondent by me on June 24, 1997, in the following manner and in compliance with section 239(a)(1)(F) of the Act:  
(Date)

☒ in person      ☐ by certified mail, return receipt requested      ☐ by regular mail

RIGHT INDEX



☒ Attached is a list of organizations and attorneys which provide free legal services, and Form EOIR-33.

☒ The alien was provided oral notice in the Polish language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

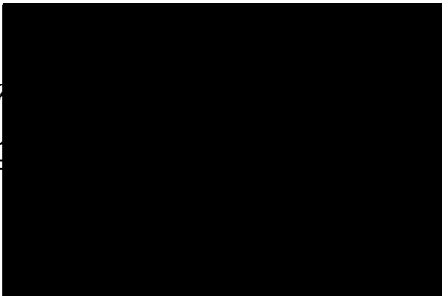
\_\_\_\_\_  
(Signature of Respondent if Personally Served)

\_\_\_\_\_  
(Signature and Title of Officer)

SP 000173 (Rev. 4-1-97)

U.S. Department of Justice  
Immigration and Naturalization Service

Continuation Page for Form I-862

Alien's Name Stanislaw PSZNEZICZNY	File Number A45 031 495	Date 06/24/97
<p style="text-align: center;">- ALLEGATIONS -</p> <ol style="list-style-type: none"><li>1. You are not a citizen or national of the United States;</li><li>2. You are a native of POLAND and a citizen of POLAND;</li><li>3. You were admitted to the United States at NEW YORK, NEW YORK, on or about 06/04/96 as an IMMIGRANT;</li><li>4. On or about 01/16/97, you knowingly encouraged, inducted, assisted, abetted or aided JAROSLAW TYSZKA and ANNA KANIOR, aliens, to enter or to try to enter the United States at or near MESSENA, NEW YORK, in violation of law.</li><li>5. You were, on 06/24/97, convicted in the US DISTRICT COURT, NORTHERN DISTRICT of NEW YORK, for the offense of ALIEN SMUGGLING, in violation of Title 8 USC 1324(a)(1)(A).</li></ol>		
Signature 	Title Officer in Charge	

SP\_000174

# EXHIBIT B

CERTIFY THAT  
THIS IS A TRUE COPY  
GEORGE A. RAY  
CLERK, U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

BY W. Lindenberg  
DEPUTY

UNITED STATES OF AMERICA

I N D I C T M E N T

Criminal No. 97-CR-038 FJS

v.

VIO: 8 U.S.C. § 1324(a)(1)(A)(ii)

STANISLAW PSZENICZNY

**RECEIVED**

Defendant.

MAR 25 1997

U.S. DISTRICT COURT  
N.D. OF N.Y.

[One Count]

FILED  
1997

THE GRAND JURY CHARGES:

U.S. PROBATION, ALBANY, NY

FEB 12 1997


COUNT ONE

GEORGE A. RAY, Clerk  
ALBANY

That from on or about January 16, 1997, in Franklin County, State and Northern District of New York, the defendant STANISLAW PSZENICZNY, did knowingly and in reckless disregard of the fact that an alien had come to, entered or remained in the United States in violation of law, transported, or moved, or attempted to transport or move such alien.

In violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii).

A TRUE BILL

  
FOREPERSON

THOMAS J. MARONEY  
UNITED STATES ATTORNEY

BY: 

JOSHUA W. NESBITT  
ASSISTANT U.S. ATTORNEY  
BAR ROLL # 103835

SP\_000178

# EXHIBIT C



**COPY**

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF NEW YORK

3  
4 UNITED STATES OF AMERICA,

5  
6 -versus-

97-CR-38

7 (PLEA)

8 STANISLAW PSZENCZNY,

9 Defendant.

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TRANSCRIPT OF PROCEEDINGS held in and for the  
United States District Court, Northern District of New York,  
at the James T. Foley United States Courthouse, 445 Broadway,  
Albany, New York 12207, on FRIDAY, MARCH 21, 1997, before  
the HON. LAWRENCE E. KAHN, United States District Court Judge.

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APPEARANCES:

FOR THE GOVERNMENT:

HON. THOMAS MARONEY, United States Attorney - NDNY  
BY: JOSHUA W. NESBITT, Assistant U.S. Attorney

FOR THE DEFENDANT:

MARK BROYDES, ESQ.

ALSO PRESENT: THERESA BUNK, Polish Interpreter

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1 (Court convened at 1:11 PM.)

2 THE CLERK: March 21, 1997. 1:12. United  
3 States of America versus Stanislaw Pszeniczny, 97-CR-38.

4 Would counsel approach and give their  
5 appearances for the record?

6 MR. NESBITT: Joshua Nesbitt for the  
7 Government.

8 MR. BROYDES: Mark Broydes for the defendant.

9 THE COURT: Mr. Broydes. Now, as I  
10 understand it, we need an interpreter, too. And that is  
11 Mrs. --

12 THE INTERPRETER: Theresa Bunk.

13 THE COURT: Do you have to swear the  
14 interpreter?

15 THE CLERK: Yes. Please step forward  
16 everybody.

17 (Interpreter duly sworn.)

18 THE COURT: Welcome.. As I understand it, the  
19 defendant is Polish and speaks Polish, and his attorney,  
20 Mark Broydes --

21 MR. BROYDES: Yes.

22 THE COURT: -- actually, you speak also  
23 Polish?

24 MR. BROYDES: I speak also Polish.

25 THE COURT: So, not for confusion, I am sure

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1 you will speak to him in Polish, which is good, and the  
2 interpreter, if she would please instruct or please  
3 interpret and translate verbatim, so there's no confusion  
4 between the lawyer -- and if I go too fast --

5 THE INTERPRETER: That's fine.

6 THE COURT: -- you let me know.

7 THE INTERPRETER: Thank you.

8 THE COURT: You can just do as I do. But if  
9 you feel you need more time, let me know.

10 THE INTERPRETER: Thank you.

11 THE COURT: And as I understand it,  
12 Mr. Broydes, at this time, your client wishes to waive his  
13 right to indictment by a grand jury and enter a plea to one  
14 count of the information prepared by the U.S. Attorney's  
15 office?

16 MR. NESBITT: The defendant has been  
17 indicted. This is a copy of the indictment, too.

18 THE COURT: I am sorry. I thought it was a  
19 waiver. That's fine.

20 All right, so he has already been indicted,  
21 fine.

22 Okay. Do you want to have the defendant  
23 sworn, please?

24 THE CLERK: Yes.

25 (Defendant duly sworn.)

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1 THE COURT: Okay, Mr. Pszeniczny, did I say  
2 that right? Okay. I'm gonna ask you some questions. And  
3 most importantly, I want to make sure that you understand  
4 what's happening here this afternoon and that you understand  
5 your rights and the charges and the consequences of what you  
6 do here this morning -- or this afternoon.

7 Again, would you state your full name for the  
8 record?

9 THE DEFENDANT: Stanislaw Pszeniczny.

10 THE COURT: Fine. How old are you now?

11 THE DEFENDANT: Fifty-three.

12 THE COURT: Your date of birth?

13 THE DEFENDANT: June 26, 1953.

14 THE COURT: Okay. Could you just provide us  
15 what educational background you have, if any? What  
16 schooling you went to?

17 THE DEFENDANT: High school education.

18 THE COURT: Okay.

19 THE DEFENDANT: Beyond that, nothing.

20 THE COURT: Fine. And what kind of  
21 employment experience have you had since you got out of  
22 school? Over the years, what type of work did you do?

23 THE DEFENDANT: Iron work. Metal worker.

24 THE COURT: Okay. Fine. Are you married?

25 THE DEFENDANT: Yes.

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1 THE COURT: Any children?

2 THE DEFENDANT: Three.

3 THE COURT: Three?

4 THE DEFENDANT: Three.

5 THE COURT: How old are they?

6 THE DEFENDANT: The oldest daughter is 21;

7 19, 13. Three daughters.

8 THE COURT: All right. Okay. Have you had  
9 any alcohol or narcotics within the past 48 hours?

10 THE DEFENDANT: No.

11 THE COURT: Are you currently or have you  
12 recently been under the care of a physician or psychiatrist  
13 for a physical or mental condition?

14 THE DEFENDANT: No.

15 THE INTERPRETER: He had an injury to his leg  
16 this past Tuesday. He stepped on a nail.

17 THE COURT: And have you received any pills  
18 or any medicine to treat that?

19 THE INTERPRETER: He had received an  
20 injection for it from a doctor.

21 THE COURT: That was what, on Tuesday?

22 THE DEFENDANT: Yes.

23 THE COURT: Okay. Today's Friday. Is that  
24 in any way affecting your mental thinking capacity or --

25 THE DEFENDANT: No.

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1 THE COURT: Okay. As you can see, the main  
2 thing I ask, is there anything you're taking or doing which  
3 in any way affects your ability to understand the charges  
4 and the consequences of what you're doing here this  
5 afternoon?

6 THE DEFENDANT: No.

7 THE COURT: Fine. And you're being  
8 represented by Mr. Mark Broydes, is that right?

9 THE DEFENDANT: Yes.

10 THE COURT: And he was hired by you to  
11 represent you?

12 THE DEFENDANT: Yes.

13 THE COURT: Has he gone over the indictment  
14 with you and have you been furnished with a copy of the  
15 charges against you?

16 THE DEFENDANT: Yes.

17 THE COURT: Have you had a chance to read the  
18 charges?

19 THE DEFENDANT: Yes.

20 THE COURT: And has Mr. Broydes explained the  
21 charges to you?

22 THE DEFENDANT: Yes.

23 THE COURT: And, of course, he speaks Polish,  
24 so, obviously, he communicated in your own language; right?

25 THE DEFENDANT: Yes.

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1 THE COURT: And do you understand the  
2 charges?

3 THE DEFENDANT: Yes.

4 THE COURT: Okay. Now, as I understand it,  
5 you wish to enter a guilty plea at this time to the  
6 one-count indictment?

7 THE DEFENDANT: Yes.

8 THE COURT: I'm also gonna be asking you if  
9 you're pleading guilty freely and voluntarily, with an  
10 understanding of the charges and the consequences of  
11 pleading guilty. I am going to be asking you if anybody has  
12 made any promises of leniency to you except what's in the  
13 plea agreement in exchange for your plea of guilty.

14 THE DEFENDANT: No.

15 THE COURT: I am going to be asking you if  
16 anyone has threatened you with a use of force to induce you  
17 to plead guilty. And also, I am gonna be asking you about  
18 your conduct in this case so I can establish that there is a  
19 factual basis for accepting and entering the plea.

20 And I want to advise you at this time that if  
21 the answers you give to me to the questions I ask you are  
22 not truthful, it may later be used against you in a  
23 prosecution for perjury or making a false statement. And I  
24 just want to know if you understand all this?

25 THE INTERPRETER: Yes, he understands.



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1 THE COURT: Fine. Before I ask you those  
2 particular questions and before the clerk takes your plea, I  
3 have to advise you of certain rights that you have in  
4 connection with this matter.

5 First of all, you have a right to enter a  
6 plea of not guilty to the charges in the indictment and  
7 persist in that plea.

8 You have a right to a speedy and a public  
9 trial by an impartial jury of 12 persons or to a trial by  
10 the Court alone if you waived a jury trial.

11 Upon such a trial, you would be presumed to  
12 be innocent under the law and the burden would be upon the  
13 Government to prove your guilt to the satisfaction of all  
14 12 jurors beyond a reasonable doubt or to the satisfaction  
15 of the Court if you waived a jury trial.

16 At such a trial, you would have the right to  
17 the assistance of an attorney; you would have the right to  
18 confront, that is, to see and hear any witnesses sworn  
19 against you and to cross-examine them.

20 THE INTERPRETER: What was the last, sir?

21 THE COURT: You would have the right to  
22 confront and see and hear any witnesses sworn against you  
23 and to cross-examine them.

24 You would have the right to remain silent or  
25 to testify in your own behalf, but you couldn't be compelled

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1 to incriminate yourself or to testify at all and your  
2 silence could not be held against you in any way, nor could  
3 any inferences of guilt be drawn against you if you decided  
4 not to testify.

5 You would have the right to use the subpoena  
6 or other processes of the Court to compel witnesses to  
7 attend the trial and to testify and to obtain any  
8 documentary or other evidence you might wish to offer in  
9 your own defense.

10 Now, if the Court accepts your plea of guilty  
11 here this afternoon, you're gonna waive or give up all those  
12 rights, there won't be a trial of any kind, and the Court  
13 will have the same power to sentence you as if you had been  
14 found guilty after a trial on the count in the indictment to  
15 which you're pleading.

16 Have you talked to Mr. Broydes about pleading  
17 guilty?

18 THE DEFENDANT: Yes.

19 THE COURT: And he explained the charges to  
20 you, is that right?

21 THE DEFENDANT: Yes.

22 THE COURT: And you talked to Mr. Broydes  
23 about the consequences of pleading guilty?

24 THE DEFENDANT: Yes.

25 THE COURT: And do you understand those

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1 consequences?

2 THE DEFENDANT: Yes.

3 THE COURT: Did you discuss with Mr. Broydes  
4 your chances of success or failure should you go to trial,  
5 the trial strategy you might use and any defenses you might  
6 put forward?

7 THE DEFENDANT: Yes.

8 THE COURT: I'd also advise you that your  
9 plea of guilty constitutes a waiver of your right against  
10 self-incrimination, and I want to warn you not to plead  
11 guilty unless you are, in fact, guilty of the charges made  
12 against you in the indictment.

13 THE DEFENDANT: Yes.

14 THE COURT: And do you still wish to plead  
15 guilty?

16 THE DEFENDANT: Yes.

17 THE COURT: Okay. Madam Clerk, would you  
18 read the charges?

19 THE CLERK: In the matter of the United  
20 States of America versus Stanislaw Pszeniczny, Count I of  
21 the indictment charges that from on or about January 16,  
22 1997, in Franklin County, State and Northern District of  
23 New York, the defendant, Stanislaw Pszeniczny, did knowingly  
24 and in reckless disregard of the fact that an alien had come  
25 to, entered or remained in the United States, in violation

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1 of law, transported or moved, or attempted to transport or  
2 move such alien. In violation of Title 8, United States  
3 Code, Section 1324(a)(1)(A)(ii).

4 How do you plead to Count I of the  
5 indictment?

6 THE DEFENDANT: Guilty.

7 THE CLERK: Thank you.

8 THE COURT: Now, Mr. Broydes advised you of  
9 your rights in this matter, is that right?

10 THE DEFENDANT: Yes.

11 THE COURT: Is there anything you want to ask  
12 me about your rights at this time?

13 THE DEFENDANT: No.

14 THE COURT: Are you satisfied with what  
15 Mr. Broydes has done for you so far?

16 THE DEFENDANT: Yes.

17 THE COURT: Has Mr. Broydes or the  
18 U.S. Attorney or any public official or anyone made any  
19 promises to you that you would be treated leniently in  
20 exchange for your plea of guilty, except what's in the plea  
21 agreement?

22 THE DEFENDANT: No.

23 THE COURT: Has anybody threatened you with a  
24 use of force to make you plead guilty?

25 THE DEFENDANT: No.

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1 THE COURT: Are you currently on probation  
2 from any other court or paroled from any institution?

3 THE DEFENDANT: No.

4 THE COURT: Mr. Nesbitt, does the Government  
5 have sufficient evidence to prove the defendant guilty  
6 beyond a reasonable doubt of the matters charged in the  
7 indictment?

8 MR. NESBITT: Yes, your Honor. On -- the  
9 Government would prove, should the case go to trial, that on  
10 January 16th of 1997, in the State and Northern District of  
11 New York, Mr. --

12 MR. BROYDES: Pszeniczny.

13 MR. NESBITT: -- the defendant, the  
14 defendant and Jaroslaw Lutczyk transported in a van driven  
15 by Mr. Pszeniczny two individuals, Anna Kanior, a citizen of  
16 South Africa, and Jaroslaw Tyszka, a citizen of Poland, both  
17 of whom the defendant knew, had entered and remained in the  
18 United States in violation of law.

19 THE COURT: Mr. Pszeniczny, did you just hear  
20 what Mr. Nesbitt said about your conduct in this case?

21 THE DEFENDANT: Yes.

22 THE COURT: And is that what you did?

23 THE DEFENDANT: Yes.

24 THE COURT: Mr. Broydes, is that your  
25 understanding?

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1 MR. BROYDES: Yes, your Honor.

2 THE COURT: Okay. Mr. Nesbitt, could you  
3 inform the defendant and the Court what the penalties are  
4 and the statutory -- potential penalties and the Sentencing  
5 Guidelines?

6 MR. NESBITT: Yes.

7 THE COURT: Thank you.

8 MR. NESBITT: Under the statute, your Honor,  
9 a plea of guilty to Count I subjects the defendant to a term  
10 of imprisonment of not more than five years; a fine of not  
11 more than \$250,000; or both a fine and a term of  
12 imprisonment; a term of supervised release of at least four  
13 years; and a mandatory special assessment of \$100.

14 The initial guidelines calculation indicates  
15 a base offense level of 9, with two levels off for  
16 acceptance of responsibility, and, assuming criminal history  
17 category I, would be a level 7, and the guideline range of  
18 zero to six months.

19 THE COURT: You heard that expressed?

20 THE DEFENDANT: Yes.

21 (Discussion held between counsel.)

22 MR. NESBITT: Your Honor, counsel would like  
23 to have the interpreter indicate that --

24 THE COURT: Sure.

25 MR. NESBITT: -- that she has, in fact, read

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1 the plea agreement in Polish and translated it for the  
2 defendant.

3 THE COURT: Do you want to ask the defendant  
4 if you've read to him the plea agreement and translated it  
5 for him?

6 THE INTERPRETER: Yes.

7 MR. BROYDES: Your Honor, this is the  
8 question to the interpreter, not to my client.

9 THE COURT: Exactly -- oh, I see what you're  
10 saying.

11 THE INTERPRETER: Yes.

12 THE COURT: I am asking the interpreter, I'm  
13 sorry. Did you read to the defendant the plea agreement in  
14 Polish and translate it for him verbatim?

15 THE INTERPRETER: Yes, I did.

16 MR. BROYDES: Thank you.

17 THE COURT: Fine. Thank you.

18 MR. NESBITT: Thank you.

19 THE COURT: And then you can ask the  
20 defendant is that so?

21 THE DEFENDANT: Yes.

22 THE COURT: Fine. All right.

23 Mr. Pszeniczny, I don't know if I got that right, but the  
24 Court must inform you that under and pursuant to certain  
25 Sentencing Guidelines adopted by the United States that my

THERESA J. CASAL, RPR, CRR  
UNITED STATES COURT REPORTER - NDNY

SP\_000321

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1 discretion in sentencing you is limited and I must follow  
2 the law as it's written, except sometimes the Court can  
3 depart from those guidelines.

4 Do you understand that?

5 THE INTERPRETER: Yes, he does.

6 THE COURT: Have you and your attorney  
7 discussed how the Sentencing Guidelines might apply to your  
8 case?

9 THE DEFENDANT: Yes.

10 THE COURT: And do you understand that the  
11 Court will not be able to determine the guideline's sentence  
12 for your case until after the presentence report has been  
13 completed and you and the Government have had an opportunity  
14 to challenge the facts reported by the Probation Officer?

15 THE INTERPRETER: Excuse me, would you repeat  
16 that?

17 THE COURT: And that you and the Government  
18 will have an opportunity to challenge the facts reported by  
19 the Probation Officer?

20 And do you also understand that after it's  
21 been determined what guidelines applies to any case, the  
22 Judge has the authority, in some circumstances, to impose a  
23 sentence that is more severe or less severe than the  
24 sentence called for by the guidelines? Yes?

25 THE DEFENDANT: Yes.



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1 THE COURT: Okay. Do you also understand  
2 that under some circumstances, you or the Government may  
3 have the right to appeal any sentence I impose?

4 THE DEFENDANT: Yes.

5 THE COURT: And do you also understand that  
6 if I decline to follow the recommendations of your attorney,  
7 or the U.S. Attorney, you will not be permitted to withdraw  
8 your plea of guilty?

9 THE DEFENDANT: Yes.

10 THE COURT: Do you also understand that  
11 parole has been abolished and that if you are sentenced to  
12 prison, you will not be released on parole?

13 THE DEFENDANT: Yes.

14 THE COURT: Has anyone made any promises or  
15 predictions to what sentence I shall impose upon you?

16 THE DEFENDANT: No.

17 THE COURT: Mr. Pszeniczny, do you still wish  
18 to plead guilty?

19 THE DEFENDANT: Yes.

20 THE COURT: Did you sign the plea agreement  
21 freely and voluntarily?

22 THE DEFENDANT: Yes.

23 THE COURT: Mr. Broydes, did you, on behalf  
24 of your client, sign the plea agreement freely and  
25 voluntarily?

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1 MR. BROYDES: Yes, your Honor.

2 THE COURT: And Mr. Nesbitt, likewise on  
3 behalf of the Government, did you sign the plea agreement  
4 freely and voluntarily?

5 MR. NESBITT: Yes, your Honor.

6 THE COURT: Okay. Again, I have got to  
7 advise the defendant that the Court is not bound by any  
8 sentencing recommendation made in the plea agreement and you  
9 will have no right to withdraw your plea of guilty if I  
10 decide not to accept any nonbinding recommendation.

11 The Court will, of course, defer its decision  
12 to accept or reject any nonbinding recommendation until I've  
13 seen the presentence investigation report and any other  
14 materials submitted to me that might bear on sentencing,  
15 from the U.S. Government, from you, from your attorney,  
16 Mr. Broydes, or from anyone on your behalf.

17 So, you understand what the Court just said  
18 about its ability to reject any nonbinding recommendation?

19 THE DEFENDANT: Yes.

20 THE COURT: Am I correct, likewise, in the  
21 plea agreement, the defendant waives certain rights to  
22 appeal? Is that right, in the plea agreement?

23 MR. NESBITT: Not contained in the plea  
24 agreement, your Honor.

25 THE COURT: Okay. Fine. You can leave that

USA v. Pszeniczny - 97-CR-38

19

1 out.

2 Now, Mr. Pszeniczny, now that you have heard  
3 about the potential penalties and the guidelines, do you  
4 still wish to plead guilty?

5 THE DEFENDANT: Yes.

6 THE COURT: And Mr. Broydes, would you just  
7 state for the record your general background and experience  
8 in handling these kinds of matters?

9 MR. BROYDES: Your Honor, I have been  
10 basically doing a great deal of the Immigration Law and this  
11 is -- for me, this is quite frankly an immigration case and  
12 my concern is that what it can happen in case of the  
13 deportation before the Immigration and Naturalization  
14 Service. And I have been practicing that part of law for  
15 the last maybe 20 years.

16 THE COURT: Okay. Fine. Very good. About  
17 how much time have you spent so far in the defense of this  
18 case, approximately?

19 MR. BROYDES: In the defense of this case? I  
20 think this is the third time that we are here, and I have  
21 also done perhaps another 40 hours in my office.

22 THE COURT: Sure. Have you had what you  
23 consider to be adequate discovery of the case of the  
24 Government?

25 MR. BROYDES: Yes, sir.

USA v. Pszeniczny - 97-CR-38

20

1 THE COURT: And have you advised the  
2 defendant of his rights, the nature of the charges and the  
3 consequences of pleading guilty?

4 MR. BROYDES: Yes, sir.

5 THE COURT: Have you made any promises or  
6 threats to him to make him plead guilty, except what's in  
7 the plea agreement?

8 MR. BROYDES: No.

9 THE COURT: You made no threats to him, is  
10 that right? Should I --

11 MR. BROYDES: Could your Honor repeat?

12 THE COURT: Sure. Have you made any promises  
13 or threats to the defendant to make him plead guilty, except  
14 what's in the plea agreement?

15 MR. BROYDES: No, your Honor.

16 THE COURT: Okay. Do you state to the Court,  
17 as far as you're concerned, he's pleading guilty freely and  
18 voluntarily, with a full understanding of the charges and  
19 the consequences?

20 MR. BROYDES: Yes, sir.

21 THE COURT: And, of course, you speak Polish  
22 fluently and you have discussed this case continuously with  
23 him in Polish?

24 MR. BROYDES: Yes, sir.

25 THE COURT: Do you know of any defenses that

1 he might have that might stand up if the case went to trial?  
2 That's a tough thing to ask a defense attorney.

3 MR. BROYDES: Could your Honor withdraw the  
4 question?

5 THE COURT: Well, we do have to ask to make  
6 sure that if you think, you know, he should go to trial, he  
7 could win the case, or he has a good chance of winning, you  
8 would have an obligation to do that. When I ask do you know  
9 of any defenses that he has that might stand up if the case  
10 went to trial, you have to answer however you feel the  
11 answer should be.

12 MR. BROYDES: Your Honor, I believe it's in  
13 my client's interest, based on what I know about his rights,  
14 facts of the case, et cetera.

15 THE COURT: Okay. Do you know any reason why  
16 he should not plead guilty?

17 MR. BROYDES: No, your Honor.

18 THE COURT: Based on the foregoing, the Court  
19 will find that the defendant pled guilty freely and  
20 voluntarily, that he is and was competent to enter such a  
21 plea, that he understands the charges against him and the  
22 consequences of pleading guilty, that there is and was a  
23 basis in fact for the Court accepting and entering the plea.

24 The Court directs the Department of Probation  
25 to prepare a presentence investigation report.

USA v. Pszeniczny - 97-CR-38

22

1                   The Court will set sentencing for June --  
2   what date?

3                   THE CLERK: June 17, 1997, at 9:30 AM, in  
4   Albany, New York.

5                   MR. BROYDES: I ask, your Honor, for that to  
6   take place in the afternoon --

7                   THE COURT: Sure.

8                   MR. BROYDES: -- coming from New York City.

9                   THE COURT: We can do it at 1:30.

10                  THE CLERK: 1:30.

11                  THE COURT: Is there any recommendation  
12   regarding bail from the Government? Or what's the status?

13                  MR. NESBITT: Your Honor, the defendant has  
14   made \$2,500 bail, and we have no objection to that  
15   continuing until the time of sentencing.

16                  MR. BROYDES: I wish to add, your Honor, that  
17   your Honor asked him before what was his employment  
18   background, and he answered as to what he was doing in his  
19   native Poland.

20                  At the present time, he works as an asbestos  
21   handler, he is removing asbestos, and he continues  
22   employment.

23                  THE COURT: That's in New York City? Well,  
24   it doesn't matter.

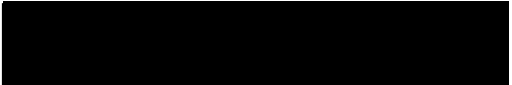
25                  MR. BROYDES: In the area, yeah.

USA v. Pszeniczny - 97-CR-38

24

CERTIFICATION:

I, THERESA J. CASAL, RPR, CRR, Official Court Reporter in and for the United States District Court, Northern District of New York, do hereby certify that I attended at the time and place set forth in the heading hereof; that I did make a stenographic record of the proceedings held in this matter and cause the same to be transcribed; that the foregoing is a true and correct transcript of the same and the whole thereof.

  
THERESA J. CASAL, RPR, CRR  
Official Court Reporter

DATE:

11/16/04

THERESA J. CASAL, RPR, CRR  
UNITED STATES COURT REPORTER - NDNY

SP\_000329

# EXHIBIT D



**COPY**

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF NEW YORK  
3 -----

4 UNITED STATES OF AMERICA,

5  
6 -versus-

97-CR-38

(SENTENCING)

7  
8 STANISLAW PSZENCZNY,

9 Defendant.  
10 -----

11  
12  
13  
14 TRANSCRIPT OF PROCEEDINGS held in and for the  
15 United States District Court, Northern District of New York,  
16 at the James T. Foley United States Courthouse, 445 Broadway,  
17 Albany, New York 12207, on TUESDAY, JUNE 24, 1997, before  
18 the HON. LAWRENCE E. KAHN, United States District Court Judge.  
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APPEARANCES:

FOR THE GOVERNMENT:

HON. THOMAS MARONEY, United States Attorney - NDNY

BY: PAUL D. SILVER, Assistant U.S. Attorney

FOR THE DEFENDANT:

MARK BROYDES, ESQ.

ALSO PRESENT: THERESA BUNK, Polish Interpreter  
CHARLES SCOTT, Senior U.S. Probation Officer  
CHRISTINE CONNOLLY, U.S. Probation Officer

USA v. Pszenczny - 97-CR-38

3

(Court commenced at 1:58 PM.)

THE CLERK: Two o'clock. United States of America versus Stanislaw Pszenczny, 97-CR-38. Would counsel please state your appearances for the record?

MR. SILVER: Good afternoon, your Honor.

Paul Silver.

THE COURT: Mr. Silver, how are you?

MR. BROYDES: Mark Broydes, 1501 Broadway, New York.

THE COURT: Mr. Broydes. And as I understand it, we have an interpreter.

THE INTERPRETER: Yes.

THE COURT: Theresa Bunk.

THE INTERPRETER: Yes.

THE COURT: Has she been sworn in?

THE CLERK: I can do that. Would you please step forward?

(Interpreter duly sworn.)

THE COURT: Mr. Broydes --

MR. BROYDES: Yes.

THE COURT: -- you have received and examined the presentence investigation report?

MR. BROYDES: Yes, your Honor.

THE COURT: And have you had an opportunity to discuss it with your client, Mr. Pszenczny? Have you had

USA v. Pl enczny - 97-CR-38

4

1 an opportunity to discuss it with him?

2 MR. BROYDES: Excuse me?

3 THE COURT: Did you have an opportunity to  
4 discuss the presentence report with him?

5 MR. BROYDES: Yes, your Honor.

6 THE COURT: Okay. And has the defendant --  
7 have you had a chance to read the presentence report in this  
8 case?

9 MR. BROYDES: Your Honor, he has not read  
10 this. I spoke with him and --

11 THE COURT: Did you read it to him and  
12 translate it to him, explain it to him?

13 MR. BROYDES: I explained to him the basic  
14 points.

15 THE COURT: Okay. And Mr. Silver, you had an  
16 opportunity to look over the presentence investigation  
17 report, your office?

18 MR. SILVER: I understand that Mr. Nesbitt  
19 has, your Honor.

20 THE COURT: Okay. Fine. Is there anything  
21 you want to tell me about the presentence report before we  
22 go forward? Is it accurate?

23 MR. BROYDES: Yeah, your Honor. I didn't  
24 find any errors or problems or I don't have any disagreement  
25 with the report. I thought that it was fair and I sort of

USA v. Pszenczny - 97-CR-38

5

1 welcomed it.

2 THE COURT: Fine. And Mr. Pszenczny, did you  
3 have any -- is there anything you wish to tell me about the  
4 report itself?

5 THE DEFENDANT: No.

6 THE COURT: It's accurate?

7 THE INTERPRETER: He has nothing to say.

8 THE COURT: Fine. Is there anything you wish  
9 to say about the report, Mr. Silver?

10 MR. SILVER: No, your Honor.

11 THE COURT: Fine. The Court will adopt the  
12 contents of the report by a preponderance of the evidence.

13 MR. BROYDES: I wish to state a few words,  
14 but --

15 THE COURT: I am going to ask you. I know  
16 that. I just want to get the report adopted by the Court.

17 Now, Mr. Broydes, did you wish to say  
18 anything on behalf of the defendant before I pass sentence  
19 on him?

20 MR. BROYDES: Yeah, your Honor. I wish to  
21 state that my client came here from New York City today with  
22 his three daughters, who are sitting over there, and with  
23 his brother. And his wife, I think, is employed today so  
24 she cannot come.

25 I spoke with my client, we had this question

1 how much we should even say to the family about this  
2 problem, how much should they be worried about this whole  
3 situation. So, we were little bit reluctant, but we thought  
4 they should come, they should support him --

5 THE COURT: Certainly.

6 MR. BROYDES: -- and they are here.

7 I wish to state that my client has no  
8 criminal record, as the report says. He is a native of  
9 Poland, he had no criminal record in Poland. Up to this,  
10 today, no criminal record in United States.

11 The crime committed was not for money; it was  
12 really a matter, I think, of foolishness. I think that what  
13 happens, and I speak myself with an accent, is that when  
14 people come to a foreign country, sometimes they simply  
15 don't know the rules of -- and what's important, what is  
16 considered not important, and of course, you know, the  
17 statute, but you don't know to what extent really the  
18 statute is taken seriously by the Government. So, I think  
19 that's maybe what happened in this case.

20 As far as the -- his financial situation, he  
21 is basically -- he has to support his family, he has three  
22 children; his oldest daughter is after first year of  
23 college, two younger children are still in school. And if  
24 he goes to jail, it would just be very serious, would have a  
25 very serious impact on the family.

1           The Probation report says that there is no  
2 requirement under the guidelines for any jail sentence. I  
3 wish to say that the thing that is -- that I consider to be  
4 very important is that there is at present going to be a  
5 deportation case against my client. The papers have been  
6 issued. There is no date yet for a hearing, but  
7 potentially, they could basically take his permanent  
8 residency in the United States and he could be ordered to  
9 leave the United States, and at the same time, he has his  
10 wife and three children in the United States, and he would  
11 have a separation of the members of the family. I think  
12 that's, with all due respect to this Court, this is the  
13 greatest possible punishment that could be visited on him.  
14 And he has to live with that possibility.

15           I think, your Honor, that there is no need  
16 for a supervised -- any supervision of his case and there is  
17 no need for probation. If you do that, it imposes financial  
18 costs on the Government, which are above \$200 a month,  
19 according to the report, and which either the Government is  
20 going to pay or my client will have to pay. And he is a  
21 very marginal position. So, I would hope that if it's  
22 possible in this case that there would be some fine of,  
23 let's say, \$500.

24           There is forfeiture proceedings, because the  
25 car which he was driving, which is worth about \$3,000, is in

USA v. Pszenczny - 97-CR-38

8

1 forfeiture proceedings and this case will be before this  
2 Court. I don't know if it will be before this judge, but  
3 before this Court, and he could lose that car that's worth  
4 about \$3,000, which is likely.

5 So, therefore, I am asking for a fine of  
6 \$500.

7 THE COURT: Okay. Mr. Silver, is there  
8 anything you wish to say regarding the sentencing? Any  
9 recommendation?

10 MR. SILVER: No, your Honor.

11 THE COURT: Okay. Mr. Pszenczny, is there  
12 anything you wish to say to the Court before I pass sentence  
13 upon you?

14 THE INTERPRETER: First of all, he would like  
15 to apologize for creating such problems for the Government,  
16 for the Court and also for himself. He is very sorry, he  
17 has never had -- been in any trouble either in Poland or  
18 here. That would be his first and last time that he would  
19 do something like that. And he promises it would never  
20 happen again.

21 THE DEFENDANT: Once again, I apologize  
22 sincerely.

23 THE COURT: Well, I believe that he is  
24 sincere with that and that he has remorse and the Court  
25 understands that.



USA v. Pszenczny - 97-CR-38

9

1 Do you know any reason why I shouldn't  
2 sentence your client at this time, Mr. Broydes?

3 MR. BROYDES: Excuse me?

4 THE COURT: Do you know any reason why I  
5 should not sentence him at this time?

6 MR. BROYDES: No.

7 THE COURT: Okay. And Mr. Pszenczny, is  
8 there any reason at this time why I should not sentence you?

9 THE DEFENDANT: No.

10 THE COURT: Fine. Okay. The Probation  
11 Officer and the Court have found the base offense level to  
12 be 9, the total offense level to be 7, the criminal history  
13 category to be I and the guideline range to be zero to six  
14 months.

15 Upon your plea of guilty to Count I of the  
16 indictment, and pursuant to the Sentencing Reform Act, it is  
17 the judgment of this Court that you are hereby sentenced to  
18 time served.

19 You shall be placed on supervised release for  
20 a term of three years. While on supervised release, you  
21 shall not commit another federal, state or local crime and  
22 shall comply with the standard conditions that have been  
23 adopted by this Court and the following special conditions:

24 Number one, if deported, or you depart, you  
25 shall not enter or attempt to enter the United States

1 without the written permission of the Attorney General or  
2 the Chief U.S. Probation Officer of this district.

3 You shall pay a fine to the Clerk of the  
4 Court in the sum of \$1,000, which is due and payable  
5 immediately.

6 And it's further ordered that you shall pay a  
7 special assessment to the Clerk of the Court of \$100, which  
8 shall be due immediately.

9 Both parties the right to appeal this  
10 sentence in certain limited circumstances, and the defendant  
11 is advised to consult with his attorney to determine whether  
12 or not an appeal is indicated. Any appeal must be filed  
13 within 10 days of this sentence.

14 And the Court believes that the defendant has  
15 learned a pretty hard lesson here and hopes that from now  
16 on, everything will work out well for him and his family.

17 THE DEFENDANT: Yes.

18 THE INTERPRETER: Once more, he apologizes  
19 and thanks you.

20 THE COURT: Anything further, gentlemen?

21 MR. BROYDES: Your Honor, can I speak?

22 THE COURT: Go ahead.

23 MR. BROYDES: Your Honor, I don't know  
24 whether my client has a thousand dollars right now. I would  
25 ask that he be given 15 days to pay that amount.

USA v. Pszenczny - 97-CR-38

11

1 MR. SCOTT: Take it from the bond?

2 THE COURT: I think there is a bail situation

3 right now.

4 MS. CONNOLLY: \$2,500 cash bond.

5 THE COURT: \$2,500. So, they can do it

6 through that.

7 MR. BROYDES: All right.

8 THE COURT: All right. Court's in recess.

9 MR. SILVER: Thank you, your Honor.


10 THE COURT: Thank you, Mr. Silver.

11 (This matter adjourned at 2:12 PM.)

12 - - - - -

CERTIFICATION:

I, THERESA J. CASAL, RPR, CRR, Official Court Reporter in and for the United States District Court, Northern District of New York, do hereby certify that I attended at the time and place set forth in the heading hereof; that I did make a stenographic record of the proceedings held in this matter and cause the same to be transcribed; that the foregoing is a true and correct transcript of the same and the whole thereof.

  
THERESA J. CASAL, RPR, CRR  
Official Court Reporter

DATE: 11/16/04

# EXHIBIT E

DATE: 06/25/97

TO: OFFICE OF THE IMMIGRATION JUDGE  
Executive Office for Immigration Review  
130 Delaware Ave.  
Buffalo, NY 14202

FROM: USINS  
Buffalo, NY

RESPONDENT: Stanislaw PSZENICZNY A# 45 031 495

**This is to notify you that this respondent is:**

- ☐ Currently incarcerated by other than INS. An Order to Show cause (Form I-221) has been served on the Respondent, and an Immigration Detainer-Notice of Action by Immigration and Naturalization Service (Form I-247) has been served with the institution shown below. He/she is incarcerated at:

His/her anticipated release date is:

- ☐ Detained by INS at:

- ☐ Detained by INS and was transferred this date to another location of detention at:

INS Motion for Change of Venue attached. ☐ Yes ☐ No


- ☒ Released from INS custody on the following condition(s):

- ☐ Personal Recognizance  
☐ Order of Recognizance (Form I-220A)  
☒ Bond in the Amount of \$ 25,000  
☐ Surety ☐ Cash  
☐ Other

- ☒ Upon release from INS custody, the respondent reported his/her address and telephone number will be:

56-57 59 St.  
Maspeth, NY 11378

- ☐ Upon release from INS custody, the respondent was reminded of the requirements contained in Section 242B (a) (F) (ii), and was provided with a Form EOIR-33, Change of Address.

  
Signature-INS Officer

Michael Phillips

Printed Name of INS Officer

SDEO/DO

Title-INS Officer

Buffalo, NY

Location

# EXHIBIT F

U.S. Department of Justice  
Executive Office for Immigration Review  
Immigration Court

Matter of

File A 45 031 495

STANISLAW PSZENICZNY,

Respondent

)  
)  
)  
)  
)

IN REMOVAL PROCEEDINGS

Transcript of Hearing

Before SARAH M. BURR, Immigration Judge

Date: April 22, 1998

Place: New York, New York

Transcribed by DEPOSITION SERVICES, INC.. At Rockville, Maryland

Official Interpreter:

Language:

Appearances:

For the Immigration and  
Naturalization Service:

Benita Sinha, Esquire

For the Respondent:

Mark Broydes, Esquire



kah

1 JUDGE FOR THE RECORD

2 Today is April 22, 1998, this is Immigration Judge  
3 Sarah Burr, New York City. This is a removal proceeding in the  
4 matter of Stanislaw Pszeniczny, file number A 45 031 495. The  
5 respondent is present in court with his attorney.

6 JUDGE TO MR. BROYDES

7 Q. Counsel, would you state your appearance.

8 Counsel. Sir.

9 A. Yes.

10 Q. Would you state your appearance please for the  
11 record.

12 A. My name is Mark Broydes, 299 Broadway, Room 1820,  
13 New York, New York 10007.

14 JUDGE TO MS. SINHA

15 Q. And the Government attorney.

16 A. Benita Sinha.

17 JUDGE TO MR. BROYDES

18 Q. Sir, what is your client's best language?

19 A. It's Polish.

20 Q. Do you waive a Polish interpreter for purposes of  
21 today's hearing?

22 A. Yes.

23 Q. Do you concede that your client was served with a  
24 charging document dated June 24, 1997?

25 A. Yes.

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1 Q. That is Exhibit 1. Have you explained to your  
2 client the nature of these proceedings and his rights there  
3 under?

4 A. Yes. Yes, Your Honor.

5 Q. There are five factual allegations, do you waive a  
6 reading?

7 A. Yes, Your Honor. As I said before, I think before  
8 we got on the record, my copy of the Order to Show Cause is very  
9 pale and I can't quite figure out.

10 JUDGE TO MS. SINHA

11 Q. Do you have another copy, Ms. Sinha?

12 A. I don't have a copy, Your Honor, but I can, oh,  
13 actually I do have another copy, Your Honor.

14 JUDGE TO MR. BROYDES

15 Q. All right. Second call, on 4-95, counsel have you  
16 had the opportunity to look at the Order to Show Cause?

17 A. I don't know what, Your Honor, it was filed and  
18 counsel, there is also a Notice to Appear and Removal Proceedings  
19 dated 6-24-97.

20 Q. Have you looked at those documents?

21 A. Yes, I looked at them.

22 Q. All right. There are five factual allegations.

23 A. Yes, well, my client would admit to the  
24 truthfulness of the allegations number 1, number 2, number 3, he  
25 would deny allegation number 4, and on number 5, I would think

kah

1 that that allegation should state that my client has been  
2 convicted of violation of section of law which is an aggravated  
3 felon or --

4 Q. You would prefer that that's what it say?

5 A. And it doesn't, there's an allegation like that in  
6 that section.

7 Q. That's not in the factual allegations, counsel,  
8 that's in the legal conclusions on page 1. Now, are you  
9 admitting or denying allegation five?

10 A. Number five I would admit allegation, I mean I  
11 would admit that my client has been convicted.

12 Q. All right. Now, you've been served with a  
13 conviction record from the United States District Court from the  
14 Northern District of New York, does that relate to your client?

15 A. Yes.

16 Q. All right. That's Exhibit 2. Any you've been  
17 served with a copy of the immigrate visa face sheet, does this  
18 relate to your client?

19 A. Yes, Your Honor.

20 Q. That's Exhibit 3.

21 JUDGE TO MS. SINHA

22 Q. Now, to the Government. Is this his first offense  
23 of alien smuggling?

24 A. Your Honor, I'm not sure about that.

25 Q. Well, the two exceptions to alien smuggling as an

kah

1 aggravated felony. The first is whether or not it's the first  
2 offense and it involved a spouse, parent, or child.

3 A. I don't have anything right now to indicate  
4 whether it was his first offense or it's a second, a second  
5 offense.

6 Q. All right. Well, the Government's going have to  
7 get, run a rap sheet on him. All right?

8 A. Okay.

9 JUDGE TO MR. BROYDES

10 Q. And then counsel, it's your burden to show whether  
11 or not there is a family relationship between your client and the  
12 people who were smuggled in. All right, you're just going to  
13 have to read the statute and figure out what is available to your  
14 client. But the first thing I need to know is whether it's a  
15 first offense or not.

16 JUDGE TO MS. SINHA

17 Q. So how long does the Government need to run the  
18 rap sheet?

19 A. If you put it off in two weeks, and that's a  
20 Monday, that should be fine.

21 Q. Two weeks. All right. May 6, 1998, 10 o'clock in  
22 the morning.

23 MR. BROYDES TO THE JUDGE

24 Q. May 6th?

25 A. Yes, sir. Please advise your client the date and

kah

1 time of his next court appearance, of the inabsentia consequences  
2 of failure to appear, and the ten year bar on discretionary  
3 relief. This hearing is adjourned.

4 HEARING CONTINUED

# EXHIBIT G

U.S. Department of Justice  
Executive Office for Immigration Review  
Immigration Court

Matter of

File A 45 031 495

STANISLAW PSZENICZNY,

Respondent

)  
)  
)  
)

IN REMOVAL PROCEEDINGS

Transcript of Hearing

Before SARAH M. BURR, Immigration Judge

Date: May 6, 1998

Place: New York, New York

Transcribed by DEPOSITION SERVICES, INC. At Rockville, Maryland

Official Interpreter:

Language:

Appearances:

For the Immigration and  
Naturalization Service:

Benita Sinha, Esquire

For the Respondent:

Mark Broydes, Esquire

1 JUDGE FOR THE RECORD

2 Today is May 6, 1998, this is Immigration Judge Sarah  
3 Burr, New York City. This is a removal proceeding in the matter  
4 of Stanislaw Pszeniczny, file number A 45 031 495. The  
5 respondent is present in court with his attorney.

6 JUDGE TO MR. BROYDES

7 Q. Counsel, would you state your appearance.

8 A. Mark Broydes, 299 Broadway.

9 JUDGE TO MS. SINHA

10 Q. And the Government attorney.

11 A. Benita Sinha.

12 JUDGE TO MR. BROYDES

13 Q. What is your client's best language?

14 A. Polish.

15 Q. Do you waive a Polish interpreter? Do you waive a  
16 Polish interpreter, counsel, for today's hearing? Counsel, do  
17 you waive a Polish interpreter?

18 A. I don't.

19 Q. You don't. Okay fine, we'll set it over until  
20 about 5 o'clock tonight to get a Polish interpreter in. Counsel,  
21 do you waive a Polish interpreter?

22 A. Yes, Your Honor.

23 Q. All right.

24 JUDGE TO MS. SINHA

25 Q. Now, this was put over to see if this gentleman



kah

1 ever had any other conviction for alien smuggling.

2 A. No he doesn't, Your Honor.

3 Q. All right.

4 A. However, the people, the aliens that were being  
5 smuggled are not family members of his. And I believe there was  
6 on his I-213 he indicates who his spouse is and the indictment  
7 indicates the names of the individuals that were being smuggled.

8 Q. All right. Based upon the information contained  
9 in Exhibit 2, which is the conviction record, the court finds  
10 that he deportable for alien smuggling. The court does not find  
11 that he is an aggravated felon.

12 MR. BROYDES TO THE JUDGE

13 Q. Can I make a statement, Your Honor?

14 A. Yes.

15 Q. He is, my client is charged with two violations.

16 A. I know that counsel. I'm sustaining one and not  
17 the other. I'm sustaining the charge that he knowingly,  
18 encouraged, induced, assisted, abided, or aided other aliens to  
19 enter the United States in violation of law. I am not sustaining  
20 the aggravated felony charge.

21 Q. Your Honor, on that issue.

22 A. On what issue?

23 Q. My client --

24 A. What issue, counsel?

25 Q. Excuse me?

kah

1 A. On what issue?

2 Q. On the charge that, Your Honor, I guess already  
3 sustained, that my client has committed an act of knowingly  
4 assisting an alien.

5 A. That's correct.

6 Q. My client --

7 A. Smuggling.

8 Q. My client has denied that allegation.

9 A. That's fine. I have the conviction record.

10 Q. And the conviction, what the conviction simply  
11 says, Your Honor, it's simply taking the name of the crime rather  
12 then what my client has done just because, and therefore, Your  
13 Honor, makes it into, because the crime is called alien smuggling  
14 therefore, Your Honor, assumes that my client has been smuggling  
15 people from the outside into the United States.

16 A. Counsel, if you want to reduce this to a legal  
17 argument in writing, be my guest. But he has been convicted of  
18 alien smuggling in violation of 8 U.S.C. 1324, he plead guilty to  
19 that. That is more than enough to sustain one of these charges.

20 Q. Your Honor, --

21 A. Now, if you have a problem with that you can file  
22 a written legal argument as to why I have incorrectly found him  
23 to be removable as charged.

24 Q. Your Honor, let me just say that in his papers  
25 that I was served by the Immigration it is plain that he

kah

1 knowingly assisted etc. He was convicted for being indifferent.  
2 Indifferent to the situation.

3 A. Counsel, he plead guilty to the crime. We're not  
4 going to relitigate the crime. It is a menz raya (phonetic sp.)  
5 crime. He was convicted of knowingly smuggling aliens into the  
6 country.

7 Q. But, Your Honor, it's not holding your decision  
8 based on the conviction. Your Honor makes your decision based on  
9 certain acts that my client supposedly committed.

10 A. No, I make my decision based on the nature of the  
11 conviction, counsel. I don't know the specific acts that lead up  
12 to his conviction but I know he plead guilty and I know what he  
13 was convicted of and based upon that conviction I'm sustaining  
14 the charge under 237(a)(1)(E)(i). Now, --

15 MS. SINHA TO THE JUDGE

16 Q. Your Honor, if I may. I think that the aggravated  
17 felony charge should also be sustained in accordance with the  
18 definition and it's 101(a)(43)(N) and I have a copy of it if  
19 you'd like to see it.

20 A. I think he's has to have had a prior conviction.

21 Q. I think it says first offense where it's a  
22 relative, of the acceptance is a first offense when it's a  
23 relative.

24 A. All right. Well, I'll hold that open. Well, lets  
25 see. If it's a aggravated felon he's not eligible for anything.

kah

1 All right.

2 JUDGE TO MR. BROYDES

3 Q. Counsel, I'll give you an opportunity to submit a  
4 brief as to why you don't believe your client's deportable with  
5 the legal basis for your argument is on either of these charges  
6 and I already have the, let's see, I have the conviction record,  
7 that's already been marked as Exhibit 3, as Exhibit 2. Now the  
8 documents that have been handed up by the Government are the  
9 criminal court complaint, the I-213, and an application for an  
10 immigrant visa. Now, counsel, do these documents relate to your  
11 client, that you were just handed?

12 A. Just we, do they --

13 Q. Do these documents relate to your client?

14 A. Do they relate to my client?

15 Q. Yes, sir.

16 A. I mean I don't see relevance of my client's  
17 immigration application.

18 Q. Well, probably to show the name of his wife. Now,  
19 this document --

20 A. Well, could we ask the counsel why she is offering  
21 them?

22 MS. SINHA TO MR. BROYDES

23 Q. Exactly what the Judge had stated. That is just  
24 to show who is in his family.

25 JUDGE TO MR. BROYDES

kah

1 Q. All right. Sir, does this criminal complaint from  
2 the Northern District of New York relate to your client?

3 A. Actually, there's no objections to it.

4 Q. That's Exhibit 3.

5 A. I'm not quite prefer to offer this to the court  
6 but there was first initial complaint and then there was, there  
7 was another complaint that was --

8 Q. Mr. Broydes, does this record of deportable alien  
9 relate to your client? This is a statement taken from your  
10 client.

11 A. Yes, Your Honor. No, I'm just simply saying to  
12 Your Honor that my client, after he was arrested he was presented  
13 with one complaint that there's seems in light of that complaint  
14 was substituted for the new one and --

15 Q. I'm simply asking you, counsel, if these documents  
16 relate to your client.

17 A. Yes, Your Honor.

18 Q. All right. This complaint, criminal complaint is  
19 Exhibit 3. Record of Deportable Alien is Exhibit 4. The  
20 application for an Immigrant Visa and Alien Registration, does  
21 that relate to your client?

22 A. Yes, Your Honor.

23 Q. That's Exhibit 5.

24 MS. SINHA TO THE JUDGE

25 Q. Your Honor, Exhibit 3 was the visa face at the

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1 last hearing. So should we move everything down one?

2 A. No, I'll make this 3A. Exhibit 5 is the  
3 application.

4 JUDGE TO MR. BROYDES

5 Q. Counsel, how much time do you need to submit in  
6 writing your legal argument as to why I should not sustain the  
7 two charges?

8 A. I would like to ask, Your Honor, for six weeks.

9 Q. All right. June 22, 1998 for counsel's brief on  
10 removability.

11 JUDGE TO MS. SINHA

12 Q. And how much time does the Government wish to  
13 respond?

14 A. Three weeks, Your Honor, if, I don't think the  
15 Government's going to respond.

16 Q. All right. Then I'm going to then mark this case  
17 off calendar for my decision. You'll get my decision. I'll  
18 either, well I'll tell you what, I'll give you a control date but  
19 I expect that I'll issue a written decision. The control date  
20 will be July 22, 1998, 10 o'clock.

21 JUDGE TO MR. BROYDES

22 Q. This hearing is adjourned. Please advise your  
23 client of the date and time of his next court appearance and of  
24 the inabsentia consequences of failure to appear.

25 HEARING CONTINUED

# EXHIBIT H

U.S. Department of Justice  
Executive Office for Immigration Review  
Immigration Court

Matter of

File A 45 031 495

STANISLAW PSZENICZNY,

Respondent

)  
)  
)  
)

IN REMOVAL PROCEEDINGS

Transcript of Hearing

Before SARAH M. BURR, Immigration Judge

Date: July 22, 1998

Place: New York, New York

Transcribed by DEPOSITION SERVICES, INC. At Rockville, Maryland

Official Interpreter:

Language:

Appearances:

For the Immigration and  
Naturalization Service:

Benita Sinha, Esquire

For the Respondent:

Mark Broydes, Esquire



kah

1 JUDGE FOR THE RECORD

2 Today is July 22, 1998, this is Immigration Judge Sarah  
3 Burr in New York City. This is a removal proceeding in the  
4 matter of Stanislaw Pszeniczny, file number A 45 031 495. The  
5 respondent's present in court with his attorney Mr. Broydes. The  
6 Government's represented by Ms. Sinha.

7 JUDGE TO MR. BROYDES

8 Q. Counsel, do you waive a Polish interpreter for  
9 Master Calendar?

10 A. Yes.

11 Q. All right.

12 JUDGE FOR THE RECORD

13 I have Mr. Broydes written statement with regard to the  
14 charges against the respondent. I have read it. I am not  
15 persuaded by it. Based upon the documents that have been marked  
16 into evidence the court finds that the respondent is removable as  
17 charged as both an alien smuggler and as an aggravated felon.  
18 With regard to the aggravated felony charge I refer specifically  
19 to Exhibits 3A, Exhibits 4, and Exhibits 5, which clearly show  
20 that the people who were smuggled into the United States were not  
21 family members of the respondent. I don't believe that he's  
22 eligible, he's certainly not eligible for voluntary departure or  
23 for cancellation of removal.

24 JUDGE TO MR. BROYDES

25 Q. Mr. Broydes, are you aware of any relief available

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1 to your client?

2 A. Not at this point.

3 Q. All right.

4 JUDGE TO COUNSEL

5 Q. Is there anything else from either side before I  
6 enter my order?

7 A. (Ms. Sinha) No, Your Honor.

8 JUDGE TO MR. BROYDES

9 Q. Mr. Broydes, anything else?

10 A. No, Your Honor.

11 JUDGE RENDERS ORAL DECISION

12 JUDGE FOR THE RECORD

13 That is my decision and order.

14 JUDGE TO COUNSEL

15 Q. Does either side wish to reserve their right to  
16 appeal?

17 A. (Ms. Sinha) No, Your Honor.

18 JUDGE TO MR. BROYDES

19 Q. Mr. Broydes, do you wish to reserve your right to  
20 appeal?

21 A. (Mr. Broydes) I do reserve.

22 Q. All right. Mr. Broydes, you have 30 days to  
23 appeal. That is on or before August 21, 1998. I'm handing you a  
24 short form order and I'm going to also hand you the limitations  
25 on discretionary relief should your client fail to surrender for

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1 removal at the time and place ordered by the Immigration and  
2 Naturalization Service.

3 JUDGE TO MR. PSZENICZNY

4 Q. Sir, do you understand English?

5 A. (Indiscernible).

6 JUDGE TO MR. BROYDES

7 Q. All right, Mr. Broydes, please advise your client  
8 of the warnings that are contained on the limitations on  
9 discretionary relief. Please advise him that he's been ordered  
10 removed. All right? Mr. Broydes, are you listening to me?

11 A. Yes, Your Honor. I just want to say that I speak  
12 Polish language and I can do that.

13 Q. All right, that's fine, but I'm not going to use  
14 you as an interpreter in court, but I assume as an officer of the  
15 court that you will so advise your client of all of the  
16 limitations on discretionary relief if he fails to surrender for  
17 removal at the time and place ordered by the Immigration and  
18 Naturalization Service. Will you do that?

19 A. Yes, Your Honor. I'm just saying that I can do  
20 it.

21 Q. Here's a copy of the short form order and the  
22 limitations on discretionary relief and please note at the bottom  
23 of the order is the appeal date, appeal due by August 21, 1998.

24 JUDGE FOR THE RECORD

25 This hearing is closed. Thank you.

kah

1 (OFF THE RECORD)

2 (ON THE RECORD)

3 JUDGE FOR THE RECORD

4 We're back on the record. I'm handing counsel the  
5 appeal forms for the Board of Immigration Appeals.

6 HEARING CLOSED

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UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
New York, New York

File No.: A 45 031 495

July 22, 1998

In the Matter of )  
 )  
STANISLAW PSZENICZNY, ) IN REMOVAL PROCEEDINGS  
 )  
Respondent )

CHARGES: Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act, in that the respondent has been convicted of an aggravated felony; Section 237(a)(1)(E)(i) of the Immigration and Nationality Act, in that the respondent has within five years of the date of his entry knowingly encouraged, induced, assisted, abided, or aided another alien to enter the United States in violation of law.

APPLICATIONS:

ON BEHALF OF RESPONDENT:

Mark Broydes, Esquire  
299 Broadway  
Suite 1820  
New York, New York 10007

ON BEHALF OF SERVICE:

Benita Sinha, Assistant  
District Counsel  
New York District

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent was admitted to the United States on June 4 of 1996, as a lawful permanent resident (see Exhibit 3).

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kah

Slightly over six months later, on January 16 of 1997, the respondent was arrested in upper New York State near the Canadian border. He was charged with alien smuggling (see Exhibits 3A and 4). On June 24 of 1997, the respondent plead guilty in the United States District Court for the Northern District of New York to one count of alien smuggling in violation of 8 U.S.C. Section 1324(a)(1)(A) (see Exhibit 2).

As a result of this conviction, the respondent was placed in removal proceedings. The respondent through his attorney has admitted allegations 1, 2, 3, and 5 contained in the Notice to Appear. This court has found, based upon the respondent's concessions and based upon the Exhibits marked into evidence, that the respondent is removable as charged.

In spite of the argument advanced by counsel, the record clearly establishes that the respondent is removable both as an alien smuggler and as an aggravated felon. The criminal judgment states that the respondent plead guilty to one count of alien smuggling in violation of the United States law (see Exhibit 2). Contrary to counsel's argument that his client is not guilty of alien smuggling because he did not cross the United States Canada border to bring undocumented people into this country, it is clear from the statute and the criminal complaint that it is unnecessary for the respondent to have actually crossed the border in order for he himself to be guilty of alien smuggling. (See Exhibit 3A and 8 U.S.C. Section 1324(a)(1)(A)).

kah

With regard to the aggravated felony charge it is equally clear from Immigration and Nationality Act Section 101(a)(43)(N) that a person convicted of alien smuggling is an aggravated felon unless it is a first offense and it involves the smuggling of a spouse, child, or parent. The two individuals whom the respondent helped to smuggle into the United States are not family members as evidenced by the Exhibit 3A, 4, and 5.

The respondent has not applied for any relief from removal and does not appear to be eligible for any relief. Accordingly the following order will be entered.

ORDER

IT IS HEREBY ORDERED that the respondent be removed from the United States to Poland based upon the charge under Section 237(a)(2)(A)(iii) and under Section 237(a)(1)(E)(i).

---

SARAH M. BURR  
U.S. Immigration Judge

CERTIFICATE PAGE


I hereby certify that the attached proceeding before  
SARAH M. BURR in the matter of:

STANISLAW PSZENICZNY

A 45 031 495

New York, New York

was held as herein appears, and that this is the original  
transcript thereof for the file of the Executive Office for  
Immigration Review.

  
\_\_\_\_\_  
(Kathy A. Hollar, Transcriber)

Deposition Services, Inc.  
6245 Executive Boulevard  
Rockville, Maryland 20852  
(301) 881-3344

\_\_\_\_\_  
September 23, 1998  
(Completion Date)



# EXHIBIT I

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
New York, New York

File No.: A 45 031 495

July 22, 1998

In the Matter of )  
 )  
STANISLAW PSZENICZNY, ) IN REMOVAL PROCEEDINGS  
 )  
Respondent )

CHARGES: Section 237(a)(2)(A)(iii) of the Immigration and Nationality Act, in that the respondent has been convicted of an aggravated felony; Section 237(a)(1)(E)(i) of the Immigration and Nationality Act, in that the respondent has within five years of the date of his entry knowingly encouraged, induced, assisted, abided, or aided another alien to enter the United States in violation of law.

APPLICATIONS:

ON BEHALF OF RESPONDENT:

Mark Broydes, Esquire  
299 Broadway  
Suite 1820  
New York, New York 10007

ON BEHALF OF SERVICE:

Benita Sinha, Assistant  
District Counsel  
New York District

ORAL DECISION OF THE IMMIGRATION JUDGE

The respondent was admitted to the United States on June 4 of 1996, as a lawful permanent resident (see Exhibit 3).

kah

Slightly over six months later, on January 16 of 1997, the respondent was arrested in upper New York State near the Canadian border. He was charged with alien smuggling (see Exhibits 3A and 4). On June 24 of 1997, the respondent plead guilty in the United States District Court for the Northern District of New York to one count of alien smuggling in violation of 8 U.S.C. Section 1324(a)(1)(A) (see Exhibit 2).

As a result of this conviction, the respondent was placed in removal proceedings. The respondent through his attorney has admitted allegations 1, 2, 3, and 5 contained in the Notice to Appear. This court has found, based upon the respondent's concessions and based upon the Exhibits marked into evidence, that the respondent is removable as charged.

In spite of the argument advanced by counsel, the record clearly establishes that the respondent is removable both as an alien smuggler and as an aggravated felon. The criminal judgment states that the respondent plead guilty to one count of alien smuggling in violation of the United States law (see Exhibit 2). Contrary to counsel's argument that his client is not guilty of alien smuggling because he did not cross the United States Canada border to bring undocumented people into this country, it is clear from the statute and the criminal complaint that it is unnecessary for the respondent to have actually crossed the border in order for he himself to be guilty of alien smuggling. (See Exhibit 3A and 8 U.S.C. Section 1324(a)(1)(A)).

kah

With regard to the aggravated felony charge it is equally clear from Immigration and Nationality Act Section 101(a)(43)(N) that a person convicted of alien smuggling is an aggravated felon unless it is a first offense and it involves the smuggling of a spouse, child, or parent. The two individuals whom the respondent helped to smuggle into the United States are not family members as evidenced by the Exhibit 3A, 4, and 5.

The respondent has not applied for any relief from removal and does not appear to be eligible for any relief. Accordingly the following order will be entered.

ORDER

IT IS HEREBY ORDERED that the respondent be removed from the United States to Poland based upon the charge under Section 237(a)(2)(A)(iii) and under Section 237(a)(1)(E)(i).

---

SARAH M. BURR  
U.S. Immigration Judge

CERTIFICATE PAGE


I hereby certify that the attached proceeding before  
SARAH M. BURR in the matter of:

STANISLAW PSZENICZNY

A 45 031 495

New York, New York

was held as herein appears, and that this is the original  
transcript thereof for the file of the Executive Office for  
Immigration Review.

---

(Kathy A. Hollar, Transcriber)

Deposition Services, Inc.  
6245 Executive Boulevard  
Rockville, Maryland 20852  
(301) 881-3344

---

September 23, 1998  
(Completion Date)

IMMIGRATION COURT  
26 FEDERAL PLZ 10TH FL RM 1000  
NEW YORK, NY 10278

In the Matter of

Case A45-031-495

PSZENICZNY, STANISLAW  
Respondent

IN REMOVAL PROCEEDINGS

ORDER OF THE IMMIGRATION JUDGE

This is a summary of the oral decision entered on Jul 22, 1998.  
This memorandum is solely for the convenience of the parties. If the  
proceedings should be appealed or reopened, the oral decision will become  
the official opinion in the case.

- ☒ The respondent was ordered removed from the United States to Poland
- ☒ Respondent's application for voluntary departure was denied and  
respondent was ordered removed to  
alternative to
- ☐ Respondent's application for voluntary departure was granted until  
upon posting a bond in the amount of \$ \_\_\_\_\_  
with an alternate order of removal to
- ☐ Respondent's application for asylum was ( ) granted ( ) denied  
( ) withdrawn.
- ☐ Respondent's application for withholding of removal was ( ) granted  
( ) denied ( ) withdrawn.
- ☐ Respondent's application for cancellation of removal under section  
240A(a) was ( ) granted ( ) denied ( ) withdrawn.
- ☐ Respondent's application for cancellation of removal was ( ) granted  
under section 240A(b)(1) ( ) granted under section 240A(b)(2)  
( ) denied ( ) withdrawn. If granted, it was ordered that the  
respondent be issued all appropriate documents necessary to give  
effect to this order.
- ☐ Respondent's application for a waiver under section \_\_\_\_\_ of the INA was  
( ) granted ( ) denied ( ) withdrawn or ( ) other.
- ☐ Respondent's application for adjustment of status under section \_\_\_\_\_  
of the INA was ( ) granted ( ) denied ( ) withdrawn. If granted, it  
was ordered that respondent be issued all appropriate documents necessary  
to give effect to this order.
- ☐ Respondent's status was rescinded under section 246.
- ☐ Respondent is admitted to the United States as a \_\_\_\_\_ until \_\_\_\_\_.
- ☐ As a condition of admission, respondent is to post a \$ \_\_\_\_\_ bond.
- ☐ Respondent knowingly filed a frivolous asylum application after proper  
notice.
- ☒ Respondent was advised of the limitation on discretionary relief for  
failure to appear as ordered in the Immigration Judge's oral decision.
- ☐ Proceedings were terminated.
- ☐ Other: \_\_\_\_\_

Date: Jul 22, 1998

Appeal: WAIVED Appeal Due By: Aug 21, 1998

SARAH M. BURR  
Immigration Judge

TAC

SP\_000622

ALIEN NUMBER: 45-031-495

ALIEN NAME: PSZENICZNY, STANISLAW

---

CERTIFICATE OF SERVICE

THIS DOCUMENT WAS SERVED BY: MAIL (M) PERSONAL SERVICE (P)  
TO: ☐ ALIEN ☐ ALIEN c/o Custodial Officer ☒ ALIEN's ATT/REP ☒ INS  
DATE: 7-22-98 BY: COURT STAFF [Signature]  
Attachments: ☐ EOIR-33 ☐ EOIR-28 ☐ Legal Services List ☐ Other

---

Q6

SP\_000621

# EXHIBIT J



**U.S. Department of Justice**  
**Executive Office for Immigration Review**

**Decision of the Board of Immigration Appeals**

**Falls Church, Virginia 22041**

**File: A45-031-495 - New York**

**Date:**

**In re: PSZENICZNY, STANISLAW**

**IN REMOVAL PROCEEDINGS**

**APPEAL**

**ON BEHALF OF RESPONDENT: Broydes, Mark, Esq.**

**MAY 15 2001**

**ORIGINAL TO BE  
PLACED IN A-FILE**

**ORDER:**

**PER CURIAM.** The Board affirms, without opinion, the results of the decision below. The decision below is, therefore, the final agency determination. *See* 8 C.F.R. § 3.1(a)(7).

  
\_\_\_\_\_  
**FOR THE BOARD**

**SP\_000550**

# EXHIBIT K

U.S. Department of Justice  
Immigration and Naturalization Service

## MEMORANDUM OF INVESTIGATION

File Number <b>A 45 031 495</b>	Title: Primary subject: PSZENICZNY, Stanislaw Piotr	Control Office /NYC
<p>Narrative Title: Memorandum of Investigation</p> <p>On 11/02/2004, at 0600 hrs, pursuant to a Warrant of Deportation NYC Fugitive Operations Officers S. [REDACTED] and myself went to the subject's last known address at 8537 Woodhaven Blvd #1E Woodhaven, NY 11421 to locate and or apprehend subject. Permission to enter the apartment was obtained from Mr. Pszeniczny and once inside I identified him as being the subject of my investigation. The subject was advised of the Warrant of Deportation and that he is under arrest. The subject's valid passport was obtained along with his medication for high cholesterol. The subject was then transported to 26 Federal Plaza NY, NY for processing without incident.</p> <p>The subject is a native and citizen of Poland, born on 06/26/1953. On 06/04/1996, at NYC the subject entered the U.S. as an LPR/DV2. On 01/16/1997, subject was arrested by the Border Patrol along the northern border with Canada smuggling Polish citizens into the U.S. Subject was prosecuted Criminally and Administratively. Criminally, the subject was convicted of Alien Smuggling 8 USC 1324(a)(1)(A) and Administratively, the subject was ordered deported 07/22/1998, and the BIA affirmed the I/J order on 05/15/2001.</p>		
Investigator [REDACTED]	DEPORTATION OFFICER	Date November 2, 2004